



Patrick W. Henning, Director



Arnold Schwarzenegger
Governor

October 27, 2009
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Mr. Leland Collins, Director
San Luis Obispo Department of Social Services
3343 S. Higuera
P.O. Box 8119
San Luis Obispo, CA 93403-8119

Dear Mr. Collins:

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
SUMMER YOUTH PROGRAM
FINAL MONITORING REPORT
PROGRAM YEAR 2009

This is to inform you of the results of our review for Program Year (PY) 2009 of the San Luis Obispo County Department of Social Services' (DSS) ARRA Summer Youth Program (SYP). This review was conducted by Mr. Jim Tremblay and Mr. Ron Perez from August 3, 2009, through August 6, 2009. Our review consisted of interviews with your staff and a review of the following items: expenditures charged to the ARRA SYP, oversight of your subrecipients, and procurement transactions. In addition, we interviewed service provider staff, SYP participants, and worksite supervisors, and focused on the following areas of your ARRA SYP: eligibility determination, program operations, participant worksites, participant payroll processing, and oversight.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by DSS with applicable federal and state laws, regulations, policies, and directives related to the ARRA grant.

We collected the information for this report through interviews with representatives of DSS, service provider staff, ARRA SYP worksite supervisors, and ARRA SYP participants. In addition, this report includes the results of our review of sampled case files, DSS' response to Section I and II of the ARRA SYP Onsite Monitoring Guide, and a review of applicable policies and procedures for PY 2009.

We received your response to our draft report on September 29, 2009, contacted Reva Gonzalez of your staff on October 13, 2009 for the latest update on some of the issue areas, and reviewed your comments and documentation before finalizing this report. Because your response did not adequately address findings 1, 2, or 3 cited in the draft report, we consider these findings unresolved. We request that DSS provide the Compliance Review Office (CRO) with additional information to resolve the issues that led to the findings. Therefore, these findings remain open and have been assigned Corrective Action Tracking System (CATS) numbers 10006, 10007, and 10008, respectively.

BACKGROUND

The DSS allocated approximately \$383,200 of its \$948,922 ARRA youth allocation to serve 65 summer youth participants for 2009. As of the week of August 3, 2009, DSS internal reports estimated expenditures of \$82,500 in its ARRA SYP and enrollment of 64 summer youth participants.

ARRA SYP REVIEW RESULTS

While we concluded that, overall, DSS is meeting applicable ARRA requirements, we noted instances of noncompliance in the following areas: contract procurement, expense payments, and withholding participant wages. The findings that we identified in these areas, our recommendations and DSS' proposed resolution of the findings are specified below.

FINDING 1

Requirement: Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) No. 14-08, Change 1, states, in part, that States may request a waiver to expand existing competitively procured contracts up to a certain percentage.

Workforce Services Directive (WSD) 09-2 states, in part, that California has been granted a waiver of the requirements under section 123 and Title 20 CFR 664.610 which requires that providers of summer youth employment opportunities be selected on a competitive basis. This waiver authorizes Local Workforce Investment Areas (LWIAs) to expand competitively procured contracts by up to 150 percent of the dollar amount of the original contract and is effective for the 2009 summer youth employment component of ARRA.

Observation: Although DSS has the authority to expand its current contracts up to 150 percent of its original contract, we found that DSS over

expanded its WIA year-round youth service provider by 32 percent. Specifically, the original contract amount with Cuesta College was \$468,283 and the ARRA SYP contract was \$854,030, which is 182 percent of the original contract. The limit on the ARRA SYP contract should have been \$702,424 ($\$468,283 \times 150\%$) which is \$151,606 less than the awarded amount.

Recommendation: We recommended that DSS provide CRO with documentation that the excess funds of \$151,606 has been removed from the ARRA SYP contract with Cuesta College.

DSS Response: The DSS stated that it is presently unable to provide documentation that the excess funds were removed from Cuesta College's contract, but it is taking steps now to amend the contract to reduce the award by \$151,606. It is anticipated that the contract amendment will be completed by late October 2009. We contacted Ms. Reva Gonzalez of your staff on October 13, 2009 and determined that while the contract amendment process is underway, but not completed.

State Conclusion: Based on DSS' response, we cannot resolve this issue at this time. The DSS did not explain any of the steps or provide any documentation of the actions it has implemented to appropriately amend Cuesta College's contract. Therefore, we continue to recommend that DSS provide CRO with documentation that the excess funds of \$151,606 have been removed from the ARRA SYP contract with Cuesta College. Until then, this issue remains open and has been assigned CATS number 10006.

FINDING 2

Requirement: 29 CFR 97.21 states, in part, that grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

Observation: We found that DSS provided an advance to Cuesta College that did not minimize the time elapsing between the transfer and disbursement of the funds by its subgrantee. Specifically, DSS advanced \$75,000 to Cuesta College who stated they needed the money as a start-up cost for their subcontractor. However, we

were informed by the subcontractor staff that the advance was not received because they decided to request funds on a reimbursement basis for costs. Based on our review of invoices submitted by Cuesta College, it appears that the advance has not been accounted for in its billing to DSS.

Recommendation: We recommended that DSS provide documentation to CRO that demonstrates that the \$75,000 has been sufficiently reconciled with allowable WIA costs.

DSS Response: The DSS stated that it is presently unable to provide documentation that the advance has been reconciled. The DSS stated that Cuesta College will be submitting an invoice for program charges that will result in the reconciliation of the advance. The DSS anticipates reconciling the advance by September 25, 2009. In an October 13, 2009 telephone message, Ms. Reva Gonzalez of your staff stated that the DSS reconciled the \$75,000 advance with Cuesta College with the invoice submitted for expenditures as of September 30, 2009. However, no documentation was submitted to substantiate the reconciliation.

State Conclusion: Based on DSS' response, we cannot resolve this issue at this time. The DSS did not provide any documentation of the actions it has implemented to reconcile the \$75,000 advance with allowable WIA costs. Therefore, we continue to recommend that DSS provide documentation to the CRO that demonstrates that the \$75,000 has been sufficiently reconciled with allowable WIA costs. Until then, this issue remains open and has been assigned CATS number 10007.

FINDING 3

Requirement: California Labor Code Section 224 states, in part, that an employer can lawfully withhold amounts from an employee's wages only: (1) when required or empowered to so by state or federal law, or (2) when a deduction is expressly authorized in writing by the employee, or (3) when a deduction to cover health, welfare, or pension contributions is expressly authorized by a wage or collective bargaining agreement.

Observation: We found that one of the subcontractors providing summer youth employment withheld a portion of its participant wages to be paid at the end of the summer program. Based on our review of the

payroll records for June and July 2009, we found that wages for approximately 26 hours of work was withheld from the participants placed with the subcontractor.

The contractor stated that the program was ending on August 21st at which time wages for the month of August and any prior wages not paid and deferred to the end of the program would be paid on that date.

We also found that DSS did not conduct the proper oversight to ensure that participants were properly paid for all hours worked for the pay period.

Recommendation: We recommended that DSS provide CRO with documentation showing that wages held from the participants' paychecks have now been paid. In addition, we recommended that DSS provide a corrective action plan detailing the procedures that will be taken to ensure that all current and future entities employing WIA and ARRA participants will not withhold WIA or ARRA youth participant wages unless authorized to do so in accordance with the provisions contained in the California Labor Code.

DSS Response: The DSS stated that it has requested documentation from its SYP subcontractor, California Conservation Corp (CCC), showing that the wages held from the participants' paychecks have been paid. However, as of the date of its response to CRO, no documentation has been provided. The DSS stated that it will provide CRO with the recommended documentation upon receipt from CCC.

Furthermore, effective November 1, 2009, DSS will issue a policy to all WIA and ARRA contractors that reiterate California Labor Code requirements stated in Section 224 regarding the conditions under which an employer may withhold an employee's wages. Additionally, the PY 2010-11 SYP will be redesigned to prevent youth from working for State agencies on mandatory furlough days.

State Conclusion: Based on DSS' response, we cannot resolve this issue at this time. The DSS did not provide any documentation showing that wages held from the participant's paychecks have been paid. In addition, DSS' CAP appears to be sufficient to ensure that all future entities employing WIA and ARRA participants will not withhold participant wages unless authorized to do so in.

accordance with the provisions contained in the California Labor Code. Since DSS will not issue this policy until November 1, 2009, we recommend that a copy be provided to CRO. This issue remains open until the requested documentation is provided to CRO and has been assigned CATS number 10008.

In addition to the findings above, we identified a condition that may become a compliance issue if not addressed. We found that the majority of DSS' ARRA youth funds are scheduled to be expended during PY 2010-11 instead of 2009-10 as specified within TEGLE No. 14-08 which states, in part, that it is the Congress' intent as well as the Administration, that the majority of the Summer Youth funds will be utilized within the first year of availability. Specifically, we found that DSS has contracted with Cuesta College to use \$508,822 or 60 percent of its ARRA SYP funds during PY 2010-11 and \$345,208 or 40 percent during PY 2009-10. We suggested that DSS reconsider a more timely way to utilize these funds.

In its response, DSS did not address our concern. We continue to suggest that DSS reconsider a more timely way to utilize its ARRA funds.

Due to the short period of time the 2009 SYP is in operation the above corrective actions were requested in the exit conference in order that corrective action can be taken immediately. Thank you for the timely action taken on specific issues identified above. We are providing you up to 10 working days after receipt of this report to submit to the Compliance Review Office your response to this report. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than November 9, 2009. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Office
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all the areas included in our review. It is DSS' responsibility to ensure that its systems, programs, and related activities comply with the ARRA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain DSS' responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact me at (916) 654-1292.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Office

cc: Greg Gibson, MIC 50
Jose Luis Marquez, MIC 50
Daniel Patterson, MIC 45
Lydia Rios, MIC 50